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10/519,851

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Masanori Itoh

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EXAMINER

NGUYEN, LINH THI

ART UNIT

PAPER NUMBER

2627

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/519,851

Applicant(s)

ITOH, MASANORI

Examiner

Nathan Danielsen

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-16, 18-23, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 11 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. Claims 1-23 and 25-27 are pending. Claims 3-25 were added in applicant's amendment filed 24 August 2005. Claim 24 was canceled and claims 26 and 27 were added in applicant's amendment filed 13 November 2006. Claims 18 and 19 stand withdrawn pursuant to applicant's election filed 24 May 2006.

### ***Response to Amendment***

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Objections***

3. Claims 9, 10, 12-14, and 25 are objected to under 37 CFR 1.75(a) because applicant has not, within the claims, equated the claimed "plurality of different bit rates" (see claim 1) with the claimed "plurality of different conditions". Each instance of the claimed "plurality of different conditions" has been interpreted as the claimed "plurality of different bit rates". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 8 recites the limitation "said different conditions". There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-10, 12, 14, 16, 17, 20-23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okita et al (JP Patent Application Publication 2001-169250), in view of Kitamura (US Patent 6,055,502).

Regarding claims 1, 20, 22, and 25, Okita discloses, with respect to figure 1, a reproducing apparatus (and associated method and programs) comprising:

a reproducing unit (element 200) that extracts (element 29) recorded signals from a recording medium (elements 17 and 20) and record management information (element 13);

However, Okita fails to disclose where the recorded signals have the same contents but are compressed in a plurality of different bit rates, as well as corresponding record management information.

In the same field of endeavor, Kitamura discloses a recording medium having recorded signals have the same contents but are compressed in a plurality of different bit rates (col. 1, lines 22-33) and record management information that denotes a mutual association between said signals that have the same contents but are compressed in a plurality of different bit rates (inherent in the apparatus for reproducing audio and video information from the DVD of col. 1, lines 22-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the data of the recording medium of Okita with that of Kitamura, for the purpose of providing a single disc having audio formats of differing qualities such that consumers having audio reproduction systems capable of outputting the differing audio qualities may choose which video-synchronized audio quality to listen to while watching the corresponding video (col. 1, lines 22-46).

Further regarding claims 1, 20, 22, and 25, Okita, in view of Kitamura, discloses a reproducing apparatus comprising:

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a decoding unit (element 19) that decodes any of said signals extracted from said recording medium (element 17); and

a recording unit that records (element 13), in correspondence to said record management information, reproduction management information including reproduction interruption information that denotes a point of interruption in time of a reproduction of signals from said recording medium (§ 94; where the point of interruption in time is a chapter number), wherein the decoding unit decodes said signals according to a selected bit rate from said point of interruption in time (§s 39-42, 94, and 95; where the signal reproduction resumes from the start of the chapter and where the claimed selected bit rate is the same one that was selected to be reproduced prior to the interruption).

Regarding claim 2, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 1. Additionally, Okita discloses where said recording unit (element 100 in figure 1) records said reproduction management information (element 13 in figure 1) on said recording medium (element 100 in figure 1).

Regarding claim 3, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 1. Additionally, Okita discloses where the reproducing apparatus further comprises a built-in flash memory, wherein said reproduction management information is recorded on said flash memory (element 31 in figure 1 and § 56).

Regarding claims 4 and 21, Okita, in view of Kitamura, discloses everything claimed, as applied to claims 3 and 20. Additionally, Okita discloses, with respect to figure 1, where said reproducing unit (element 200) further extracts said reproduction management information (element 29) from said flash memory (element 31), and based on said record management information (element 13) and said reproduction management information (element 28), extracts (element 29), from said recording medium; signals after signals corresponding to said reproduction interruption information included in said reproduction management information (figure 5; where the apparatus would know the point of interruption in time based on the recorded time of each title or address).

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Regarding claim 5, Okita, in view of Kitamura, discloses everything claimed, as applied to claims 1-4. Additionally, Okita discloses where said reproduction interruption information concerns elapsed time from start of reproduction of said signal (figure 4 and ¶ 94).

Regarding claim 6, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 3. Additionally, Okita discloses, with respect to figure 1, where said recording unit (element 100) further records, in correspondence to said record management information (element 13) and said reproduction management information, identification information of said recording medium on said flash memory (elements 20 and 31).

Regarding claim 7, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 6. Additionally, Okita disclose, with respect to figure 1, where said reproducing unit (element 200) further extracts said record management information (element 29), said reproduction management information, and said identification information of said recording medium (elements 13 and 28), any of signals extracted from said recording medium is suitable for said reproducing unit and/or said decoding unit (element 29), and said reproducing unit, based on said record management information, said reproduction management information, and said identification information of said recording medium (elements 13 and 28), further extracts, from said recording medium, signals after signals to said reproduction interruption information included in said corresponding reproduction management information (¶ 92).

Regarding claim 8, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 1. However, Okita fails to disclose where said different conditions concern different bit rates, different numbers of pixels, or different compression methods.

In the same field of endeavor, Kitamura discloses where said different conditions concern different bit rates, different numbers of pixels, or different compression methods (col. 1, lines 22-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the data of the recording medium of Okita with that of Kitamura, for the purpose of providing a single disc having audio formats of differing qualities such that consumers having

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audio reproduction systems capable of outputting the differing audio qualities may choose which video-synchronized audio quality to listen to while watching the corresponding video (col. 1, lines 22-46).

Regarding claim 9, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 1. However, Okita fails to disclose where said signals that have the same contents but are compressed in a plurality of different conditions are recorded on said recording medium so that each of said signals can be continuously reproduced.

In the same field of endeavor, Kitamura discloses where said signals that have the same contents but are compressed in a plurality of different conditions are recorded on said recording medium so that each of said signals can be continuously reproduced (inherent in the DVD of col. 1, lines 22-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the data of the recording medium of Okita with that of Kitamura, for the purpose of providing a single disc having audio formats of differing qualities such that consumers having audio reproduction systems capable of outputting the differing audio qualities may choose which video-synchronized audio quality to listen to while watching the corresponding video (col. 1, lines 22-46).

Regarding claims 10, 12, and 13, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 1. Additionally, Okita discloses where said signals that have the same contents but are compressed in a plurality of different conditions are recorded respectively in continuous data areas (figure 4), each of which has size that is equal to or larger than a predetermined size (figures 2 and 4; where it is well known that an audio portion corresponding to a video portion of the data recorded on a DVD must be limited to a predetermined size such that the next data to be outputted can be reproduced and decoded prior to the time when it must be output).

Regarding claim 14, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 12. Additionally, Okita discloses where said decoding unit (element 18 in figure 1) further decodes signals compressed in a plurality of different conditions that are extracted from said recording medium (element 20 in figure 1).

Regarding claims 16, 23, and 26, Okita discloses, with respect to figure 1, a recording apparatus (and associated method and computer readable medium), comprising:

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a recording unit that records, on a recording medium (element 31), signals and record management information (§s 41 and 42);

a reproducing unit (element 200) that extracts (element 29) recorded signals from a recording medium (elements 17 and 20); and

a decoding unit (element 19) that decodes any of said signals extracted from said recording medium (element 17); and

wherein said recording unit records said signals in continuous data areas, each of which has size that is equal to or larger than a predetermined size, and records said continuous data areas on said recording medium in a form of being repeatedly alternately arranged (figures 2 and 4; where it is well known that an audio portion corresponding to a video portion of the data recorded on a DVD must be limited to a predetermined size such that the next data to be outputted can be reproduced and decoded prior to the time when it must be output).

However, Okita fails to disclose where the recorded signals have the same contents but are compressed in a plurality of different bit rates, as well as corresponding record management information.

In the same field of endeavor, Kitamura discloses a recording medium having recorded signals have the same contents but are compressed in a plurality of different bit rates (col. 1, lines 22-33) and record management information that denotes a mutual association between said signals that have the same contents but are compressed in a plurality of different bit rates (inherent in the apparatus for reproducing audio and video information from the DVD of col. 1, lines 22-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the data of the recording medium of Okita with that of Kitamura, for the purpose of providing a single disc having audio formats of differing qualities such that consumers having audio reproduction systems capable of outputting the differing audio qualities may choose which video-synchronized audio quality to listen to while watching the corresponding video (col. 1, lines 22-46).

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9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okita, in view of Kitamura, and further in view of Applicant Admitted Prior Art (hereinafter the AAPA).

Regarding claim 15, Okita, in view of Kitamura, discloses everything claimed, as applied to claim 8. However, Okita, in view of Kitamura, fails to disclose MPEG2 and MPEG4.

In the same field of endeavor, the AAPA discloses the reproducing apparatus, wherein said different compression methods are MPEG2 and MPEG4, respectively (Paragraph [0002] and [0003]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the selection of compression of Okita with MPEG2 and MPEG4 as suggested by the AAPA, for the purpose of being able to record/reproduce with a lower bit rate.

#### ***Allowable Subject Matter***

10. Claim 27 is allowed because the prior art of record, either alone or in combination, fails to teach or suggest record management information for denoting a mutual association between two video signals having the same content compressed at different bit rates.

11. Claims 11 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The reason for allowance has been is stated in the previous office action.

#### ***Closing Remarks/Comments***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Danielsen whose telephone number is (571) 272-4248. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:00 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wayne R. Young/  
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Nathan Danielsen  
August 9, 2007